

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

REBECCA L. GIBBONS, )  
                          )  
Plaintiff,             )  
                          )  
v.                     )                          No. 4:08-CV-523 CAS  
                          )  
MICHAEL J. ASTRUE, )  
Commissioner of Social Security, )  
                          )  
Defendant.            )

**ORDER**

This matter is before the Court pursuant to the Report and Recommendation of United States Magistrate Judge Lewis M. Blanton, filed August 28, 2009. See 28 U.S.C. § 636(b). The Magistrate Judge recommended that the decision of the Commissioner denying plaintiff's applications for disability insurance benefits under Title II of the Social Security Act, 42 U.S.C. §§ 401, et seq., and for supplemental security income benefits under Title XVI of the Act, be reversed and remanded.

After carefully reviewing the record, the Magistrate Judge found there was no evidence, other than the non-medical opinion of Ms. Sadlo, plaintiff's counselor, addressing plaintiff's mental ability to function in the workplace. Without such medical evidence, the Administrative Law Judge cannot make an informed decision about plaintiff's functional restrictions. The Magistrate Judge explained that because of this omission, the ALJ assessed a mental residual functional capacity which is not based on substantial medical evidence in the record, and plaintiff has been prejudiced by the ALJ's failure to obtain further medical evidence addressing her functional restrictions.

The Magistrate Judge recommended that this matter be reversed and remanded to the ALJ to consider the records of Dr. Rao and Ms. Sadlo, to formulate a new mental residual functional

capacity for plaintiff based on the medical evidence in the record, and to order, if needed, additional medical information addressing plaintiff's mental ability to function in the workplace. Neither party has filed an objection to the recommendation and the time to do so has passed.

Accordingly,

**IT IS HEREBY ORDERED** that the Report and Recommendation of the United States Magistrate Judge is **sustained, adopted** and **incorporated** herein. [Doc. 18]

**IT IS FURTHER ORDERED** that the decision of the Commissioner denying plaintiff's applications for disability insurance benefits under Title II of the Social Security Act and for supplemental security income benefits under Title XVI of the Act is **REVERSED** and pursuant to sentence four of 42 U.S.C. § 405(g), is **REMANDED** for further proceedings consistent with the Report and Recommendation.

An appropriate judgment of remand will accompany this order.



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CHARLES A. SHAW  
UNITED STATES DISTRICT JUDGE

Dated this 14th day of September, 2009.